IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

RP.No. 814 of 2007()

AGAINST THE JUDGEMENT IN AS.347/2000 Dated 28/06/2007

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APPELLANT IN AS:

C.K.SHANMUGHA NARAYANAN,
CHITTEZHATHU KOCHAKKAN, AMBALLOOR DESOM VILLAGE,
MUKUNDAPURAM TALUK, TRICHUR DISTRICT.

BY ADV. SRI.C.S.ABDUL SAMMAD

RESPONDENTS: RESPONDENTS IN AS:

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1. SUSHAMA, W/O.MOOZHIYIL RAVEENDRAN,
MANNAMPETTA DESAM, AMBALLOOR VILLAGE,
MUKUNDAPURAM TALUK, REPRESENTED BY ANURUDAN, DO.

2. SUSHAMA, W/O.MOOZHIYIL RAVEENDRAN,
MANNAMPETTA DESAM, AMBALLOOR VILLAGE,
MUKUNDAPURAM TALUK,

BY ADV. SRI.R.D.SHENOY
SRI.S.VINOD BHAT

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

Review Petition No.814 of 2007 in

A.S.No.347 of 2000

Dated this the 26th September, 2007.

O R D E R

Plaintiff whose suit and appeal for specific performance had been dismissed is the review petitioner. Plaintiff filed a suit for specific performance. Defendants resisted the relief of specific performance and also raised a counter claim, contending that in pursuance to the agreement for sale, appellant was put in possession of the property. Trial Court refused the relief of specific performance and allowed the counter claim. One of the reasons stated by the court below was that in Ext.A4 reply notice issued for and on behalf of the appellant, it was specifically admitted that petitioner was not having sufficient funds to get the sale deed executed. Trial Court also allowed the respondent to recover the possession of ten cents of land. In the appeal also, no additional evidence was adduced. I had considered the issue, especially Ext.A4 notice, and also the counter claim. The trial

court, as well as this Court found that the appellant was not put in possession of the property, in pursuance of the agreement, but he trespassed into the property. So, the counter claim was allowed.

2. According to the counsel for the appellant, appellant only instructed the lawyer to sent the notice and without getting proper instructions, the lawyer sent a reply notice against the true facts. So far, the appellant had no case that the lawyer who was entrusted to issue notice acted against his interest.

3. The respondent was given a decree for recovery of ten cents of land which was found to be in the possession of appellant. It was found that the respondent has title over the same and he was allowed to recover the same. According to the petitioner, he is not in possession of the same and the same is in the possession of a person who is not a party to the suit. A person who is not a party is not bound by the decree passed in the suit. If any person other than the appellant is in possession of the same, and not by the appellant, he will have to work out his remedy, as and when he is sought to be

dispossessed. It is not for the appellant to conduct the litigation for others. No grounds are made out to review the judgment and decree pronounced in this appeal. The review petition is only to be dismissed.

In the result, the review petition is dismissed.

K.PADMANABHAN NAIR,
JUDGE

nj.